

ESTTA Tracking number: **ESTTA593148**Filing date: **03/18/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding.	92053501
Applicant	Plaintiff Christian M. Ziebarth
Other Party	Defendant Del Taco, LLC
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	Yes

Motion for an Extension of Answer or Discovery or Trial Periods With Consent

The Close of Plaintiff's Rebuttal Period is currently set to close on 05/01/2014. Christian M. Ziebarth requests that such date be extended for 60 days, or until 06/30/2014, and that all subsequent dates be reset accordingly.

Time to Answer :	CLOSED
Deadline for Discovery Conference :	CLOSED
Discovery Opens :	CLOSED
Initial Disclosures Due :	CLOSED
Expert Disclosure Due :	CLOSED
Discovery Closes :	CLOSED
Plaintiff's Pretrial Disclosures :	CLOSED
Plaintiff's 30-day Trial Period Ends :	CLOSED
Defendant's Pretrial Disclosures :	CLOSED
Defendant's 30-day Trial Period Ends :	CLOSED
Plaintiff's Rebuttal Disclosures :	05/31/2014
Plaintiff's 15-day Rebuttal Period Ends :	06/30/2014

The grounds for this request are as follows:

- *This consented motion is not sought for purposes of delay, but rather to give Petitioner sufficient time to conduct a live cross-examination of a witness who submitted testimony via affidavit during Registrant's trial period pursuant to the Stipulation previously entered into by the parties and filed with the Board on October 4, 2013 (Doc. No. 56). The parties have worked diligently to schedule the live cross-examination. Since filing the February 3, 2014 Consented Motion, the previously-scheduled March 3, 2014 live cross-examination of Del Taco's witness was unable to go forward. Inclement weather caused the cancellation of Del Taco's counsel's flights, making it impossible for her to travel to Orange County, California, the location of the live cross-examination. Said cross-examination has been re-scheduled and is currently set to take place on March 24, 2014. To allow sufficient time for Petitioner to take the live cross-examination testimony, then review the transcripts to determine what, if any, rebuttal evidence he would like to submit, a 60-day extension is needed. The additional time requested will relieve any undue burden on Petitioner's remaining rebuttal period. Further, the stipulation previously filed expressly allows for such extensions of*

the trial periods as needed. Accordingly, the parties now respectfully request that all open dates be extended for a period of 60 days, as follows: Plaintiff's Rebuttal Disclosures: Due May 31, 2014, and Plaintiff's 15-Day Rebuttal Period: Ends June 30, 2014.

Christian M. Ziebarth has secured the express consent of all other parties to this proceeding for the extension and resetting of dates requested herein.

Christian M. Ziebarth has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,
/Kelly K. Pfeiffer/
Kelly K. Pfeiffer
kelly@amalaw.net
april.besi@dinsmore.com
03/18/2014